

COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Central Regional Office, 627 Main Street, Worcester, MA 01608

3 Rec <sup>WAB</sup> 1/3/02

JANE SWIFT  
Governor

BOB DURAND  
Secretary

LAUREN A. LISS  
Commissioner

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEC - 5 2001

Arcade Realty Trust  
1 Main Street  
Whitinsville, MA 01588

Re: CRWSC - Northbridge  
ATF-Davidson  
1 Main Street

Attention: Leonard Jolles,  
Property Manager

RTN 2-00111

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NOTICE OF AUDIT  
REQUEST FOR SITE INSPECTION

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Dear Mr. Jolles:

The Department of Environmental Protection's Bureau of Waste Site Cleanup (DEP, the Department) has selected the above referenced site for an Audit. The Department audits response actions conducted without Department oversight at oil and/or hazardous material disposal sites, in order to ensure that these actions are meeting the requirements of Massachusetts laws and regulations, including Massachusetts General Law Chapter 21E and the Massachusetts Contingency Plan (the MCP), 310 CMR 40.0000.

An Audit Fact Sheet is attached which outlines the audit process and provides the citations in the MCP that relate to the audit process. Audit staff from the Central Regional Office will primarily focus on the Response Action Outcome, dated December 1998, prepared by Kroll Associates, Inc., and received by the Department on December 18, 1998 for this audit evaluation. In addition, the following documents are available in Department records for the site and may be evaluated during this audit:

Phase I Initial Site Investigation Report dated March 1997, prepared by Neal Drawas  
LSP #9844

The Department's evaluation of the site's compliance status will be based on the information provided in these documents. If you are aware of additional, existing documentation relevant to the response actions being audited at the site, please submit the existing documentation to the Department within fourteen (14) days of your receipt of this Notice.

#### Request For Site Inspection

The Department requests an appointment to inspect the site on Thursday, December 13, 2001 at 8:00 am. The inspection will be conducted by Greg Root. You or a representative familiar with the site are requested to attend. A Licensed Site Professional (LSP) familiar with the site may also attend. Please call Greg Root within seven (7) days of receipt of this Notice at 508-849-4017 to either confirm the appointment or to arrange an alternative date or time. The purpose of the inspection will be to evaluate the site conditions in relation to the information received by the Department, and to discuss issues identified during the Department's record review:

1. The Method 1 Risk Characterization
2. The nature and extent of contamination

Preliminary audit findings based on the Department's file review may also be discussed during the site inspection.

#### Audit Results

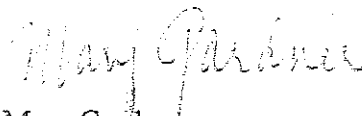
After the site inspection the Department will evaluate whether the actions taken at the site are in compliance with the regulations and meet the performance standards needed to protect public health, safety, and the environment. The Department's determination of compliance will be based on the work performed as of the date the submittal was received by DEP. You will receive a Notice of Audit Findings (NOAF) summarizing the results of the audit.

If the Department finds that response actions were not conducted in compliance with the MCP, you will be notified of the actions needed to return to compliance. The Department may set Deadlines that you will be expected to meet, to correct any violations, or the department may pursue higher level enforcement.

Response actions at the site can proceed as planned during the audit unless the Department otherwise notifies you. If you have any questions about this Notice, please call Greg Root at 508-849-4017. The Department appreciates your anticipated cooperation in this matter.

Sincerely,

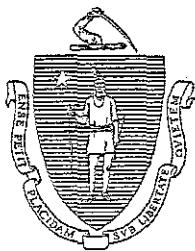
DEC - 6 2001

  
Mary Gardner  
Section Chief  
Audits/Site Management

Attachment: Audit Fact Sheet

Cc: Town of Northbridge, Board of Selectmen  
Town of Northbridge, Board of Health  
Neal Drawas, Kroll Associates, Inc., 900 Third Avenue, New York, NY 10022  
Tom Potter, DEP-Boston  
Data Entry: [AUDCO/NOA]

NOA v7.1 (July 2000)



# AUDITS

## Massachusetts Department of Environmental Protection BWSC Audit Program Fact Sheet

### Authority, Mandate, and Funding for Audits

The Massachusetts Department of Environmental Protection (DEP) is required to audit response actions at disposal sites by M.G.L. Chapter 21E § 3A(o). This law mandates that DEP audit a minimum of 20% of all sites for which annual compliance assurance fees are required to be paid. Annual compliance assurance fees serve as the funding source for the audit program. DEP has issued regulations to govern the audit process in the revised Massachusetts Contingency Plan (MCP) (310 CMR 40.1100). M.G.L. c. 21E and the MCP also give DEP the authority to inspect sites, collect environmental samples, and require the submission of pertinent information related to a site.

### What is the Goal of an Audit?

The goal of an audit is to ensure compliance with M.G.L. c. 21E and the MCP by verifying that response actions have been conducted according to all applicable requirements of the MCP. The principal focus of the evaluation is to determine whether human health, safety, public welfare, and the environment have been adequately protected by response actions conducted at the site. Overall, the DEP audit program has been designed to ensure:

*Compliance* with M.G.L. c. 21E, the MCP, and other applicable requirements.

*Consistency* of audits within and across DEP regions.

*Credibility* to maintain public confidence that remedial response actions that have little or no direct DEP oversight are being performed in a proper and timely manner.

*Commitment* to achieving the 20% audit target in M.G.L. c. 21E.

The data generated by the Audit program will be used to evaluate the overall success of the strategies in the new MCP.

### What are the steps in an Audit?

Important points to note in the process are:

- DEP may audit sites, response actions, Responsible Parties (RPs), Potentially Responsible Parties (PRPs), or Other Persons.
- DEP may select sites for audit at random, or on a targeted basis.
- DEP may take enforcement actions for violations at any time in the process.
- DEP will provide reasonable Notice of Audit beyond an examination of documents in Department records, or within other public records. Such activities may include: (1) a request for information, (2) a request to meet with DEP, (3) a site inspection, (4) collection of samples, or (5) other actions as required.
- DEP will issue a Notice of Audit Findings at the conclusion of an audit if the audit was comprised of more than an examination of documents within the Department's records or in other public records. DEP is not required to issue a Notice of Audit Findings if doing so might jeopardize enforcement actions at a site.

### When may a site be audited?

DEP selects sites for audit randomly (Random Audit) and by criteria-specific methods (Targeted Audits) within the following timeframes: 1) Within two (2) years from filing a Class A or B Action Outcome Statement (RAO), DEP may select a site for a Random Audit. 2) From the point of the initial release notification to five (5) years after a Class A or Class B RAO has been filed, DEP may select a site for a Targeted Audit. 3) DEP shall not initiate a Targeted Audit after 5 years unless DEP has reason to believe that:

- Failure to maintain or achieve a level of No Significant Risk.
- Discovery of a significant risk at the site.
- Response actions taken were in noncompliance.
- The RAO statement failed to identify known facts, data, or conditions.
- The person responsible for response actions at the site failed to fully respond to a Request For Information (RFI) from the DEP.
- A change in use or conditions at the site that has caused exposure or increased potential for exposure to oil and/or hazardous material.
- Failure to retain documents regarding the site.
- Failure to perform operation and maintenance and monitoring activities at the site.
- Individuals involved in a pattern of noncompliance or response actions that violate an Environmental Restriction.
- Any change in activity, use and/or exposure at the site without an evaluation of an LSP and additional response actions.

DEP may initiate, at any time, a Random or Targeted Audit of any site subject to an Activity and Use Limitation (AUL).

### What are my responsibilities in an Audit?

As a RP, PRP, or Other Person, you have two principal obligations during an audit:

- (1) You must respond to "Requests For Information" (RFIs) from DEP under the MCP (310 CMR 40.0165(1-5) and 40.1120(1)(b&c) and under M.G.L. Chapter 21E §§ 2, 4, and 8.
- (2) You must allow entry to the site by DEP staff, agents, and contractors for the purpose of sampling or to inspect any records, conditions, equipment, practices, or property under M.G.L. Chapter 21E § 8 and the MCP (310 CMR 40.0166). DEP, however, must arrange any such entry at reasonable times and give you reasonable notice.

### How long will the Audit take?

If DEP's initial review of the file raises no questions and reveals no deficiencies or violations, an audit could end within several weeks. In such case, DEP is not permitted to notify the RP, PRP, or Other Person of the audit. If, however, information is unavailable, or deficiencies or violations are discovered, the audit could take several months to complete and may include a Notice of Audit Finding and request for an Audit Follow-up Plan.

### What may happen if violations or deficiencies are found?

If the audit discovers violations or deficiencies, at the conclusion of the audit DEP may ask you to: (1) correct those violations and deficiencies within an **Interim Deadline**, (2) submit an **Audit Follow-up Plan**, and/or (3) participate in compliance assistance. An Audit Follow-up Plan specifies actions to provide information to confirm, demonstrate, or achieve compliance. Audit Follow-up Plans will be requested where a more extensive effort is needed to achieve compliance. Audit Follow-up Plans must be approved by DEP. Upon completion of activities required at the conclusion of an audit within an Interim Deadline or through an Audit Follow-up Plan, a **Post-Audit Completion Statement** shall be submitted to the DEP. Compliance assistance is a voluntary process for all parties concerned and will only be initiated by DEP after an audit is completed.

### Will DEP take any other actions if violations are discovered?

DEP may also initiate enforcement actions for violations found at any time during or after an audit. Enforcement actions may include issuance of a: Notice of Noncompliance, Notice of Intent to Assess a Civil Penalty, Notice of Enforcement Conference, Notice of Responsibility, Notice of Response Action, and/or a DEP order.

### Who should I talk to if I have questions regarding an audit finding?

DEP Auditors often discuss potential compliance problems with RPs, PRPs or Other Persons during the course of audits. Call or write the DEP contact person listed in either the Notice of Audit or Notice of Audit Findings if you would like to further discuss any findings.